

ZONING BOARD OF REVIEW

Barrington, Rhode Island

July 27, 2016

APPLICATIONS #3844, #3850, #3851, #3852, #3853 and #3854

MINUTES OF THE MEETING:

At the call of the meeting by the Chairman, Thomas Kraig, the Board met with Mark Freel, Peter Dennehy, Paul Blasbalg, and Ladd Meyer.

Also present were Assistant Solicitor Amy Goins, Building Official Bob Speaker and Board Secretary Mary Ann Rosenlof.

At 7:00 P.M., Mr. Kraig called the meeting to order.

MINUTES OF THE PREVIOUS MEETING:

Mr. Freel proposed to correct the minutes of the June 22, 2016 minutes by adding the letter “l” to his last name, and to amend the second paragraph in application #3842; by having the first sentence to read “*The applicant said that* they are asking for the least relief necessary ...”.

MOTION: Mr. Free moved to approve the June 22, 2016 minutes as revised. Mr. Dennehy seconded the motion and it carried unanimously (5-0).

The Chair noted that the applicant in application #3849, Joseph Marcoccio, 26 Appian Way, continued from the June meeting, has elected to withdraw his application per an email dated July 12, 2016.

Application #3852, Dale & Martha Wallick, 28 Clarke Rd., Barrington, RI, applicants and owners, for permission to construct a 2nd floor addition, attached garage and sunporch. Assessor’s Plat 27, Lot 7, R-25 District, 5 Hampden St., Barrington, RI, requiring dimensional relief for construction within 100’ setback from wetlands/water bodies and a special use permit for proposed construction within 100’ of Wetlands Overlay District.

Present: Anthony DeSisto, Esq., 450 Veterans Memorial Parkway, East Providence, RI

Mr. DeSisto, representing the applicants, said that the Conservation Commission had heard this application in June and felt that additional information should have been included. The applicants would like to address the Commission’s concerns, make the requested additions and have the application heard at both the Conservation Commission and Zoning Board meetings in August.

MOTION: Mr. Free made a motion to continue this application to the August 18, 2016 meeting. Mr. Meyer seconded the motion and it carried unanimously (5-0).

Continuation of application #3844, Peter and Gail Lund, 129 Massasoit Ave., Barrington, RI, applicants and owners, for permission to construct a 2-story single family home with 2-car garage and storage under living space. Assessor's Plat 33, Lot 252, R-10 District, 129 Massasoit Ave., Barrington, RI, requiring dimensional relief for construction within 100' setback from wetlands/water bodies and a special use permit for proposed construction within 100' of Wetlands Overlay District.

Present: Peter Lund, applicant
Anthony DeSisto, Esq., 450 Veterans Memorial Parkway, East Providence, RI
Karl Sauerbrey, architect
Ted Myatt, Conservation Commission

Mr. Sauerbrey explained that the entire project was designed with the objective of getting the driveway and the house as far away from the water as they reasonably could while meeting all other dimensional setbacks. They had considered many different designs before arriving at this proposal. The garage and other areas beneath the house will be kept unfinished, and the habitable portions of the home will be placed above the AE-12 flood zone elevation in accordance with the RI Building Code for the flood plain.

The closest that any one point of the structure will be to the coastal feature will be 50.6 feet from the earthen dike to the closest deck, 51.6 feet to the closest house corner and approximately 43' to the driveway.

Mr. Blasbalg said that he was not sure what weight to give the report from on the Conservation Commission because, while it made comments, no vote was taken. Mr. Myatt advised that the motion before the Conservation Commission to approve the application was not solely the opinion of the Chair; however, the consensus of the members was that this was not a buildable lot and the motion to approve the application was not seconded. Ms. Goins advised that recommendations from the Conservation Commission are advisory to the Zoning Board and the Board can give those recommendations whatever weight the Board believes they deserve. She also noted that, based on the Commission's comments on its latest report, the recommendation in the original report to disapprove the application still stands.

Ms. Goins further stated that the Zoning Board should not rule on whether or not this is a buildable lot because that would exceed the Board's statutory authority. The Board should evaluate the application solely upon the basis of the relief that has been requested for a dimensional variance and for a special use permit

Mr. DeSisto presented to the Board **Exhibit A**, a letter dated March 5, 2013, to Mr. Lund from the Tax Assessor, stating that the lot is taxed as a buildable lot because of the 13,687 square feet of upland or adequate buildable land.

Mr. DeSisto said that this proposal is for the least relief necessary. It is not a large home at approximately 1,700 to 1,800 square feet on two levels. No matter where the house is located, it would be within the 100' setback from the wetland. If it were moved farther from the wetland, they would

require relief from other dimensional requirements.

The Board asked the applicant if, were the Board to approve this application, the applicant would accept the “usual” Conservation Commission conditions for erosion controls, construction equipment on the street side, etc. Mr. DeSisto stated that they would.

Mr. Sauerbrey stated that the proposed deck is designated to be permeable. There will be drainage/gutter systems (two or four downspouts) to direct runoff into drywells or other control mechanisms. He said that when the application was first rejected by the Conservation Commission, they hired an engineering company to design some grade changes for some of the runoff. Swales were incorporated and the rain garden was enlarged. Mr. Sauerbrey showed the details of drainage system in a larger scale of drawing #1 included in the application package.

The structure will be approximately 131 feet from the high water mark, which is much farther from the closest corner of the proposed deck than the earthen dike which is the coastal feature.

Mr. DeSisto stated that the gutters/downspouts, proposed rain garden, existing dike all serve to satisfy the requirements of 185-174 B. through G. The Board noted that this proposal will have to go before CRMC, serving as an additional environmental safeguard.

Mr. DeSisto cited the Development Standards of 185-174 (B through G) as follows:

B. The proposed project will not obstruct floodways in any detrimental way, or reduce the net capacity of the site and adjoining properties to retain floodwaters.

C. The proposed project will not cause any sedimentation of wetlands, and will include all necessary and appropriate erosion and sediment control measures.

D. The proposed project will not reduce the capacity of any wetland to absorb pollutants.

E. The proposed project will not directly or indirectly degrade the water quality in any wetland or water body.

F. The proposed project will not reduce the capacity of any wetland to recharge groundwater.

G. The proposed project will not degrade the value of any wetland as a spawning ground or nursery for fish and shellfish or habitat for wildlife or wildfowl

Mr. Freel said that in moving to approve the application, he will give no weight to the Conservation Commission's report due to the lack of a vote. He also noted Ms. Goins' comment that the Board is not bound by their vote.

MOTION: Mr. Freel made a motion to approve the dimensional variance portion of this application subject to the following conditions that are the standards normally set forth by the Conservation Commission:

1. Use of appropriate erosion control measures prior to and during all soil disturbance work
2. All construction materials be stored on the street side of the lot and not on the water side
3. In the final construction, all downspouts and gutters be directed into drywells so all runoff is

controlled with the site

Mr. Blasbalg seconded the motion and it was approved (4-1) with Mr. Dennehy opposed.

REASON FOR DECISION:

It was the judgment of the Board that the standards in § 185-69 have been met: A) that the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and is not due to an economic disability of the applicant because while this is a 22,000 square foot lot in an R-10 zone, a substantial portion of the lot is salt marsh and other undevelopable land and the buildable area is so small that one could not build on this lot and stay 100' away from the wetlands or coastal feature; B) that the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain because there is no evidence to support either of those conclusions; C) that the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the Comprehensive Plan because it is a buildable lot and putting a house on it will not alter the character of the neighborhood or surrounding area where other single family homes exist in similar proximity to the water; D) that the relief to be granted is the least relief necessary because the proposed home is modest in size at 1,700 / 1,800 sq. ft. and not unreasonable in its impact on the lot; the driveway will be of crushed stone; and the 51 1/2 foot distance from the wetland is not unreasonable considering the constraints of the property. Additionally, the standards for a dimensional variance set forth in Section § 185-71 have been met because the applicant has proved that the hardship to be suffered by the owner, absent granting the relief, would amount to more than a mere inconvenience because absent relief, they cannot build the house.

MOTION: Mr. Freel made a motion to approve the special use permit portion of this application, subject to the conditions as set forth in the motion for the dimensional variance portion of this application. Mr. Blasbalg seconded the motion and it was approve (4-1) with Mr. Dennehy opposed.

REASON FOR DECISION:

It was the judgment of the Board that the standards in § 185-73 have been met: A) that the public convenience and welfare will be substantially served - there will be no negative impact on the public; B) that it will be in harmony with the general purpose of this chapter, and with the Comprehensive Community Plan because it is a single family home on a buildable lot in a residential zone; C) that it will not result in or create conditions that will be inimical to the public health, safety, morals and general welfare of the community because the applicant is willing to satisfy the conditions set forth in the motion; D) that it will not substantially or permanently injure the appropriate use of the property in the surrounding area or district because houses like this and sited like this are common in the area.

Also, it was the judgment of the Board that the standards in 185-174 (B. through G.), as cited by Mr. DeSisto above, have been met. Absent any specific finding or recommendations from the Conservation Commission, there is no evidence to suggest that these standards cannot be met and the evidence presented suggest that any and all of these impacts have been addressed to the maximum extent possible and will be negligible.

Application #3850, David Andreozzi, Andreozzi Architects, 232D Waseca Ave., Barrington, RI, applicant, and Michael & Insa Wood, 76 Annawamscutt Rd., Barrington, RI, owners, for permission to raise, in-place, the existing home above design flood elevation to be in conformance with FEMA, add small bump-out addition for kitchen, reconfigure front entry and add steps off deck. Assessor's Plat 3, Lot 117, R-25 District, 76 Annawamscutt Rd., Barrington, RI, requiring dimensional relief for front, side and rear yard setbacks, and relief from the setback for construction within 100' setback from wetlands/water bodies.

Present: David Andreozzi, applicant
Michael & Insa Wood, owners
Ted Myatt, Conservation Commission

Stephen Shechtman, 9 Appian Way, abutter
Anthony DeSisto, Esq., 450 Veterans Memorial Parkway, East Providence, RI, counsel for abutter
Deirdre Paiva, Certified Professional in Erosion Sediment Control and Certified Erosion, Sediment and Stormwater Inspector, for abutter

Mr. Andreozzi explained that his clients had planned to raise in-place their house, which is non-conforming and sits 2' 6" below the base flood elevation in the FEMA A-Zone. During the course of planning that project, they determined that the property is adjacent to the FEMA V-18 zone and decided that in view of projected sea level rise, potential future changes in FEMA requirements, and a desire not to raise the house and then have to do so again in the future, they would comply with the requirements for the FEMA V-18 zone as part of this project.

The house as so raised would not exceed the maximum permitted building height, and would go no closer to any of the property lines than the house currently does. Mr. Andreozzi said that there is a slight change in the footprint in that a new front cover (overhang) on the entryway is being proposed but it will go no closer to the Annawamscutt front yard setback than the existing house does. In addition, they desire to reconfigure the first floor space in order to provide a better layout and a more functional kitchen. The revamped kitchen requires an additional approximately 6' x 8' extension; this added space will be no closer to the side yard setback than the existing porch is. The existing foundation is not compliant with FEMA regulations and will be replaced with one that does comply. Approximately 90% of the lot is in the 100' setback and compliance is not possible.

The Board asked for clarification of the Conservation Commission's report for this application. Mr. Myatt explained that the application did not include all of the information the Commission normally receives; however, they voted unanimously to approve the application based on the information that they did have. Mr. Andreozzi referred to a letter dated July 12, 2016 (3rd page of the application packet) from Andreozzi Architects that addresses the missing information. In addition, the project will have to be reviewed by CRMC. Improvements for runoff were made during a prior renovation and drywells were installed. Since the roof will not change, there are no additional plans for handling roof runoff other than installing the same system should it get destroyed during construction.

Mr. Andreozzi submitted 6 photographs, **Exhibits A-1 through A-6**, of homes along the shore and north of the subject property, but within approximately 150 to 200 yards of the Wood's home. They

have all raised their homes up to the FEMA V-18 zone requirements. Included with the application packet are 8 approval letters/emails from neighbors.

Mr. DeSisto appeared, representing Mr. Stephen Shechtman, a direct abutter to the south. He introduced Ms. Deirdre Paiva and provided her resume, **Exhibit B**, to the Board.

Ms. Paiva said that she has reviewed the FEMA maps and the town's GIS and that the subject property is in the A-zone and the V-zone is to the west and to the north. She provided the Board with a Flood map, **Exhibit C**, for that area. She also distributed the GIS map from the town, **Exhibit D**, which indicates that the property is in the A-zone and that the V-zone is to the north, on the other side of Annawamscutt. To the south, starting at lots 121 and 116, properties are in the 500 year flood zone - not subject to flooding and the same criteria. She stated that according to the town's GIS and the property lines, about 1/3 of the Wood's lot is in the V-zone and about 2/3 in the A-zone. The FEMA map, which has been calculated, shows that the Wood's property is in the A-zone. She said that the Wood's home is grandfathered and they do not need to raise their structure. The A-zone is elevation 12 and the V-zone is elevation 18. Under the RI Building Code and CRMC, if they were to reconstruct their house or make any modifications, they would be required to raise their structure to the base flood elevation, plus one foot so that their lowest floor elevation would be at elevation 13. Therefore, they are raising it too much.

The Board asked why the extra height would make a difference since there is de minimis change in the exterior footprint and dimensions relative to the setback areas. The Board also expressed the sense that raising the house farther up than might be currently required seemed to be a prudent thing to do, since no height relief is sought.

Mr. DeSisto indicated that the house is in the A-zone, it is the current FEMA and RI Building Code requirements that are applicable, and any request to raise the house higher than that would not meet the "least relief necessary" standard. The non-conformity that exists now would be greater and the overall massing would be greater even though they do not need a dimensional variance for the height. He stated that the applicant is going 5 feet higher than there is any need to, which is the difference between elevation 13 and elevation 18. Mr. DeSisto stated that Mr. Shechtman does not believe that they need to go up at all, but to the extent that they are going to elevate the house, they are going at least 5 feet over what they should be doing.

Mr. DeSisto also stated that the properties depicted in the photographs provided to the Board (Exhibits A-1 to A-6) are all in a different flood zone and he does not think that it is appropriate to apply the standards from one flood zone to another flood zone. He stated that the demarcation line for the neighborhood is Annawamscutt and, therefore, it is inappropriate to apply the standards of the Willow Way neighborhood, to the north, to the Appian Way neighborhood which is directly to the south. The requirements for the A-zone should be used rather than the V-zone because that is where the structure is located.

Ms. Paiva said that while the V-zone requires elevation 18, under the design regulations, if their whole house were in the V-zone, they would be required to put their lowest structural member one foot above the base flood level - at 13 feet. Therefore, their lowest structural member would have to be at 13 feet and not 18 feet. [sic]

Mr. Shechtman said that they purchased 2 waterfront lots (lot 121 & 116) in 1984, each of which was approximately twice the size of the Wood's lot. They combined the lots to insure that there was not a buildable lot to the north so as to insure privacy. Their home (Lot 121) has existed in its current form for about 30 years. During those years there has never been a storm that has come over the seawall by their property. He also stated that the height of his house was below 35 feet.

Mr. DeSisto noted that the applicants had been before the Zoning Board in 1995 and 2004 for dimensional variance. He presented 4 photos of the existing house and 2 photos of the house as it existed prior to any upgrades by the applicants (**Exhibits E-1 through E-6**). Mr. Shechtman said that the 1995 application granted dimensional relief for adding square footage. Mr. DeSisto said that the second application approved relief for adding a second story to part of the house and required no relief other than for being within 100' of the water body.

Mr. DeSisto said that the application would alter the general character of the surrounding neighborhood to the south of Annawamscutt by increasing the massing of the house and could not satisfy the requirement of least relief necessary.

Mrs. Wood said that she considers the houses to the north (Exhibits A-1 to A-6), to be her neighborhood. She provided the Board with a photo (**Exhibit F**) of her house and Mr. Shechtman's house and another neighbor's house to the south of Mr. Shechtman's, all as seen from the water. The Board noted that Mr. Shechtman's house, as seen from that photo, is of a much greater mass, as seen from the water, than the Wood's house. Mr. Andreozzi said that the current height of the Wood's house is between 25' and 28', and if raised, would be about the same height as the Shechtman's house.

Mr. Andreozzi said that he recommends in a situation like this to be conservative – while the house is in the A-zone, it is adjacent to the V-zone and it is prudent to add the extra height. In response to the Board's questions, he said that they are only required to go up 5 feet but think it's prudent to raise the structure by an additional 5 feet so that the house is protected should the flood maps change in the future.

Mr. Andreozzi further said that the motivation/hardship in proposing to raise the house is to get it out of the flood zone. However, if they were to increase the height by only five feet, there would not be enough space for the garage beneath the house – with the height increase they are proposing, they are able to use the space that had been the garage as an office, and still have a garage beneath the house.

Ms. Goins advised the Board that the Zoning Enabling Act had been amended, effective July 6, to provide that if a property owner were proposing to employ freeboard (as defined by law) as a factor of safety, that freeboard area, not to exceed 5 feet, shall be excluded from the calculation of building height.

Mr. Shechtman said that a condition of his support for the last application submitted by the applicants was that there be a planted barrier between the properties. He said that the Woods declined to participate in planting those trees so he planted them along the property line. He said that the Wood's filed a complaint with CRMC and demanded that he take the trees down. CRMC did not require him to remove the trees. He also stated that he believes that the added height is all about the Wood's view.

Mr. Wood responded that they are already on the water and there will be no improvement in view by going up. He said that they want to have peace of mind with a safer structure should a major storm hit.

MOTION: Mr. Freel moved to approve the application subject to the following conditions as set forth in the Conservation Commission's report for this application

1. Use of appropriate erosion control measures prior to and during all soil disturbance work. Because of the anticipated degree of soil disturbance and proximity to the water, a redundant system (i.e., double rows of erosion control structures) is recommended; near the point of disturbance and in front of the sea wall.
2. Storage of all construction material in driveway or roadway (as allowed); not on soil surface.

Mr. Dennehy seconded the motion and it carried unanimously (5-0).

REASON FOR DECISION:

It was the judgment of the Board that the standards in § 185-69 have been met: A) that the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and is not due to an economic disability of the applicant, because, although we should consider exactly where the structure is in relation to the flood plain, it is in a flood zone and it is that location that triggers these concerns; B) that the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain because, while a suggestion was made that the two previous applications granted with respect to this property should be considered, they should not be taken into consideration because each application was granted on its own merits, and there is no evidence that the relief granted by those prior application contributed to the condition for which they now seek relief. Their primary motivation is elevation to get up out of the flood zone and the applicant did not create that. The flood zone is a fact of nature. There was no clear evidence presented as to what was done after those prior applications, nor any testimony from the abutter that those changes created what is now objected to as excessive mass; C) that the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the Comprehensive Plan because there is not enough of an argument that the Board should not consider the whole surrounding area, or to conclude that there is a line defining where the neighborhood is or isn't and even if there were, there is no evidence of the prevailing heights south of Annawamscutt - except for the objector's own house which is at least equivalent in height to the applicant's proposed house; D) that the relief to be granted is the least relief necessary because the denial of this application would defeat the ability of the applicants to have the garage underneath and get the living space higher for flood protection. Also, with the recent amendment to the statute of which Ms. Goins advised the Board - allowing some variance for freeboard height, and the basis for that amendment – recognition of climatic and waterfront conditions in an area like this – those all support that this is the least relief necessary. As to the other dimensional variances, the minimal addition on one of the side yard setbacks and the rear yard setback are de minimis as to their lateral extension and wouldn't be a reason to deny. Additionally, the standards for a dimensional variance set forth in Section § 185-71 have been met because the applicant has proved that the hardship to be suffered by the owner, absent granting the

relief, would amount to more than a mere inconvenience because of all of the reasons stated above and to accommodate flood events - all of which are more than a mere inconvenience..

Application #3851, Thomas & Kathryn Bendheim, 7 Spinnaker Dr., Barrington, RI, applicants and Thomas & Kathryn Bendheim, 10 Woodhaven Rd., Barrington, RI, owners, for permission to demolish existing dwelling and build new home. Assessor's Plat 5, Lot 125, R-40 District, 7 Spinnaker Dr., Barrington, RI, requiring dimensional relief for construction within 100' setback from wetlands/water bodies and a special use permit for proposed construction within 100' of Wetlands Overlay District.

Present: Thomas & Kathryn Bendheim, applicants
Scott Weymouth, Arris Design

Mr. Bendheim explained that upon purchasing this property, they knew that they wanted to go through substantial renovations. They previously went before the Zoning Board in November 2015, and then before CRMC, and received approvals. They subsequently obtained four bids from different contractors to do the work, each of whom expressed similar concerns about the low level of the foundation, the condition of the sill plate that was almost in the ground, and the fact that the mechanicals and the duct work were located in the slab that had been there since the house was built in the early 1980s. The contractors said that the more prudent approach would be to start from scratch and reconfigure it slightly

Mr. Weymouth said that the previous design was to use the existing footprint and put additions on three of the sides. The approved square footage of that design was 3,785. The new design would be 3,338 square feet with a total footprint of 450 square feet less than the previously approved design. The lot is almost 60,000 square feet. The new proposal would turn the house and bring it closer to the front yard setback. The northwest corner of the house would be approximately 3 feet farther from the coastal feature.

The Chair noted that the Board had a report from the Conservation Commission approving this proposal and recommending that the conditions in the prior "Conditions of Approval" be imposed.

The Board noted that they are compliant with every setback other than the 100' setback from the coastal feature.

Mr. Weymouth said that they are within 2 feet of the required 50 foot front yard setback and therefore, feels that this proposal is the least relief necessary so as not to require relief from the front yard setback. Also, they are 54' from the coastal feature which is the top of a natural bank. The overall height of the building is 34' to the ridge and the front stoop and overhang are in compliance as well. Mr. Weymouth said that all of the previous plans that had been approved are in place for a rain garden on the site, and all of the downspouts and gutters are going into drywells. They are, however, adapted slightly to meet the new design.

MOTION: Mr. Blasbalg made a motion to approve the dimensional variance portion of this application subject to the following conditions as set forth in the Conservation Commission's report as provided in 2015.

1. Prior to and during all soil disturbance work, erosion control measures (silt fence, hay bale) must be in place between the work zone and the easement/surface water feature.
2. All construction material and equipment must be stored on east side of house, away from the water feature.

Mr. Meyer seconded the motion and it carried unanimously (5-0).

REASON FOR DECISION:

It was the judgment of the Board that the standards in § 185-69 have been met: A) that the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and is not due to an economic disability of the applicant because the property is proximate to the water and there is no way to change that or get out of that distance; B) that the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain because there is no evidence to suggest that that is the case; C) that the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the Comprehensive Plan because this is a neighborhood of large homes and the house which will result will be in conformity with the feel of that neighborhood; D) that the relief to be granted is the least relief necessary because the new house will be going further away from the coastal feature than in the previous application and no side or front yard setback relief is being sought and the footprint of the structure is going to be smaller. Additionally, the standards for a dimensional variance set forth in Section § 185-71 have been met because the applicant has proved that the hardship to be suffered by the owner, absent granting the relief, would amount to more than a mere inconvenience because the current house is defective and would be impracticable to repair, and not permitting erection of a new house would be more than a mere inconvenience.

MOTION: Mr. Blasbalg made a motion to approve the special use permit portion of this application, taking into account the Conservation Commission's report of 2015. Mr. Meyer seconded the motion and it carried unanimously (5-0).

REASON FOR DECISION:

It was the judgment of the Board that the standards in § 185-73 have been met: A) that the public convenience and welfare will be substantially served because nothing has been shown that would have a negative impact; B) that it will be in harmony with the general purpose of this chapter, and with the Comprehensive Community Plan because it has been stated by a number of people that this proposed structure is in harmony with the neighborhood and similar in size to surrounding homes; C) that it will not result in or create conditions that will be inimical to the public health, safety, morals and general welfare of the community because this is replacing a personal residence with another personal residence; D) that it will not substantially or permanently injure the appropriate use of the property in the surrounding area or district because this is a residential home being built in a residential area.

Additionally, the applicant has met the exemption standard, granted in § 185-175, from the requirements of § 185-174 because they are going no closer to the wetland and the report of the Conservation Commission indicates there is no potential for significant environmental impact.

Application #3853, Brent Delessio, 4 Bullock Ave., Barrington, RI, applicant and owner, for permission to add a 2nd floor to existing structure and adding another addition of 2 floors adjacent to existing structure. Assessor's Plat 35, Lot 86, R-25 District, 62 Acre Ave., Barrington, RI, requiring dimensional relief for side yard setback and exceeding lot coverage.

Present: Brent Delessio, applicant

Mr. Delessio explained that he has a blended family including two special needs boys as well as a third boy. He has owned and rented out this house, and has decided to renovate and add to it to use it as their family dwelling. The two boys with special needs require their own space and there is just a very small room for his third child when he is visiting.

The addition is on the existing house and relief is being sought for the 6' side yard setback which continues the line of the existing house. In addition, part of the proposed addition on the opposite side of the house is within the required setback. Mr. Delessio said that he has spoken to most of his neighbors and none of them have any objections. The current total square footage of living space is 908 and the proposed square footage for total living space would be 2,500.

The Board noted that this is a 6,400 SF lot in an R-25 zone and the percentage lot coverage that he has to meet is out-of-line with the space provided by a lot of this size. If this were R-10, he would be well under the limit, and the increase in lot coverage relief of .43% is de minimis.

Mr. Delessio said the neighborhood is transitional in terms of the sizes of homes - it used to consist of small summer homes and over the years, most have been converted into much larger homes.

MOTION: Mr. Meyer moved to approve this application. Mr. Freel seconded the motion and it carried unanimously (5-0).

REASON FOR DECISION:

It was the judgment of the Board that the standards in § 185-69 have been met: A) that the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and is not due to an economic disability of the applicant because this is an R-25 district and this lot at 6,400 SF is too small for even the R-10 district. The relief for lot coverage is not significant and there is no greater incursion into the side yard setback; B) that the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain because there is no evidence to that effect; C) that the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the Comprehensive Plan because this is a transitional neighborhood and homes are getting bigger in the area and this home will be more in line with the neighborhood going forward; D) that the relief to be granted is the least relief necessary because they are building along the existing foundation on the side that is already outside of the required setback, and the added space requested is very reasonable. Additionally, the standards for a dimensional variance set forth in Section § 185-71 have been met because the applicant has proved that the hardship to be suffered by the owner, absent granting the relief, would amount to more than a mere inconvenience because an expansion of this nature is the only way to achieve necessary additional space.

Application #3854, Christine & Jeffrey Barton, 29 Meadowbrook Dr., Barrington, RI, applicants and owners, for permission to extend existing deck and cover portion of existing and new deck. Assessor's Plat 32, Lot 466, R-25 District, 9 Meadowbrook Dr., Barrington, RI, requiring dimensional relief for rear yard setback and exceeding lot coverage.

Present: Christine Barton, applicant

Ms. Barton said that they would like to add an additional 333 square feet to their existing deck which is too narrow at 7' width. They have had people fall off of the deck and it is too narrow for furniture. They have crank out windows that render unusable 2 feet of the deck width. They would like to extend the deck out by an additional 9 feet to have an almost square area. They also want to put a roof over the deck but it will not be enclosed. The proposed decks would be 25' x 12' for the uncovered portion and 16' x 25' for the covered portion.

Ms. Barton said that she is on a substandard lot in the R-25 district with a corner lot of just 10,266 SF that does not allow her to have the additional area that she desires. Also, the back yard setback adjoins another property that she owns, lot 493, so there would be no concerned neighbor. That lot was before the Board over a year ago and an unmerger was approved. Ms. Goins said that it would be helpful to have that application before the Board, to which the Board agreed, and to verify that there were no conditions attached to that relief regarding any construction on the subject property. In addition, the Board noted that the applicant is still exceeding the lot coverage significantly and is asking for 6-1/2 feet of relief from the rear yard setback in order to build a very large aggregation of decks, thus making difficult a determination of least relief necessary.

The Board indicated that with the evidence presented, there was both uncertainty with respect to factual matters – the status of the adjacent lot – and lack of adequate evidence to meet the standards of § 185-69.

MOTION: Mr. Dennehy made a motion to continue this application to the August 18, 2016 meeting and asked that the applicant provide the record from the prior hearing and to present reasons why a deck of this size is needed.

Mr. Blasbalg seconded the motion and it carried unanimously (5-0).

ADJOURN:

There being no other business, Mr. Freel moved to adjourn at 10:48 p.m. and the meeting was adjourned.

Respectfully submitted,

Mary Ann Rosenlof, secretary
Thomas Kraig, Chairman

cc: Andrew Teitz, Solicitor, Amy Goins, Assistant Solicitor